

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 493 (as passed by the Senate)
Sponsor: Senator Bill Bullard, Jr.
Committee: Financial Services

Date Completed: 6-1-01

RATIONALE

The Insurance Code requires the Commissioner of the Office of Financial and Insurance Services to obtain the approval of a circuit judge in order to issue subpoenas in cases involving the denial, suspension, or revocation of licenses. Other provisions of the Code, however, do not require a judge's approval for the Commissioner to issue a subpoena. Under Chapter 20 (Unfair and Prohibited Trade Practices and Frauds), for example, the Commissioner is authorized to issue subpoenas without the approval of a judge. Some people believe the Commissioner should have the authority to issue subpoenas, as necessary, in a manner that is consistent throughout the Code.

CONTENT

The bill would amend the Insurance Code to eliminate the requirement that the Commissioner of the Office of Financial and Insurance Services obtain the approval of an Ingham County Circuit Court judge before issuing subpoenas to require the attendance and testimony of witnesses and the production of documents necessary to conduct hearings on granting, renewing, suspending, or revoking an individual's license to act as an insurance agent, solicitor, adjuster, or counselor.

MCL 500.1242

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

When the Commissioner has probable cause to believe that an individual who is in the insurance industry is conducting his or her

business by using an unfair method of competition or unfair or deceptive act, Chapter 20 of the Code permits the Commissioner to hold a hearing on whether the individual should be required to stop engaging in that practice. The Code provides that "any party to the cause" has the power to compel the subpoena of witnesses, compel their attendance, and require the production of documents that are considered relevant to the inquiry (MCL 500.2032). In addition, subpoenas and other processes of the Commissioner under Chapter 20 may be served by anyone duly authorized by the Commissioner, as specified in the Code (MCL 500.2034). Thus, these provisions grant the Commissioner the authority to issue subpoenas without a judge's approval. Requiring the Commissioner to seek approval of a judge under Chapter 12 (Agents, Solicitors, Adjusters, and Counselors) before issuing a subpoena is burdensome and unnecessary, as well as inconsistent with the Commissioner's authority granted under other provisions of the Code. By removing the requirement for a judge's approval in cases involving the denial, suspension, or revocation of licenses, the bill would streamline the subpoena process and make the Commissioner's powers consistent throughout the Code.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.